

APPEAL NO. 022495
FILED NOVEMBER 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 4, 2002. The hearing officer resolved the sole disputed issues by deciding that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the fifth compensable quarter. The claimant appealed on sufficiency grounds, and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by complying with Rules 130.102(d)(4) and 130.102(e). It is undisputed that the claimant sustained a compensable injury on _____; that the claimant has reached maximum medical improvement with an impairment rating of 15% or greater; and, that the qualifying period for the fifth quarter was from January 26 through April 26, 2002, with the fifth quarter running from May 10 through August 8, 2002. The hearing officer found that the claimant's unemployment was a direct result of the impairment from the compensable injury.

The claimant asserts that he met the good faith job search requirement of Rule 130.102(b)(2) by compliance with Rule 130.102(d)(4) for the fifth quarter. In other words, the claimant proceeded on the theory that he had no ability to work. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The hearing officer found that the claimant had some ability to work, as addressed in a functional capacity exam introduced by the carrier, and that he thus did not make a good faith effort to secure employment commensurate with his abilities.

After review of the record before us and the complained-of determination, we have concluded that there is sufficient legal and factual support for the hearing officer's decision. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**STEVEN BISBY
8144 WALNUT HILL LANE
DALLAS, TEXAS 75231.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge